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10/033,108	12/28/2001	William T. Wilkinson	WIL-104US	7693

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EXAMINER
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RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/033,108

Applicant(s)

WILKINSON, WILLIAM T.

Examiner

Glenn Richman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-23, 30-34, 36-65, 71, 73, 74, 76-82 and 84-92 is/are pending in the application.
- 4a) Of the above claim(s) 15, 19-22, 41-52 and 54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16-18, 23, 30-34, 36-40, 53, 55-65, 71, 73, 74, 76-79, 81, 82 and 84-92 is/are rejected.
- 7) ☒ Claim(s) 80 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/11/03, 9/3/03, 3/11/03, 6/2/03, 7/11/03, 3/7/03, 8/12/04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

Claim 80 is objected to because of the following informalities: Depends on a canceled claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

#### ***Election/Restrictions***

Claims 5, 19, 24-29, 35, 49, 66-70, 72, 75, 83 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/26/04.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

### ***Claim Rejections - 35 USC § 102***

Claims 90-92 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmidt.

Schmidt discloses a mounting interface for mounting the upper body exercise module to the lower body exercise machine (2a, col. 7, lines 21 – et seq.); an elongated connector having first and second ends (4a); a user engagement connected to the elongated connector first end for engaging or being engaged by a body appendage of a user (1a); a spool connected to the elongated connector second end and on which the elongated connector is adapted to be wound (72a); a resistance mechanism for resisting a tensile force applied to the first end of the elongated connector (col. 13, lines 58 - et seq.); and a retraction mechanism for automatically rewinding the spool (col. 13, lines 45-57); the resistance device adapted to provide resistance to a full natural arm swing of the user (fig. 1).

As for claims 91 and 92, Schmidt further discloses a docking engagement on the lower-body exercise machine for receiving the user engagement in a non-use position with the elongated connector in an extended configuration (col. 7, lines 21 – et seq.), the docking engagement adapted to permit the user to optionally disengage and re-engage the user engagement while using the lower body exercise machine (col. 7, lines 51-58), wherein the resistance mechanism is not powered exclusively by elasticity of the elongated connector; each upper body exercise module adapted to provide resistance to a full, natural arm swing of at least one arm of the user (col. 7, lines 21 – et seq.), .

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 90, 1-4, 12, 13, 30, 32-34, 78, 79 are rejected under 35 U.S.C. 102(b) as being anticipated by Daniels.

As for claims 90, 1-4, Daniels discloses a mounting interface for mounting the upper body exercise module to the lower body exercise machine (fig. 2c); an elongated connector having first and second ends (35); a user engagement connected to the elongated connector first end for engaging or being engaged by a body appendage of a user (22); a spool connected to the elongated connector second end and on which the elongated connector is adapted to be wound (fig. 39c, col. 41, lines 13-22); a resistance mechanism for resisting a tensile force applied to the first end of the elongated connector (col. 41, lines 13-22); and a retraction mechanism for automatically rewinding the spool (col. 41, lines 13-22); the resistance device adapted to provide resistance to a full natural arm swing of the user (39c), resistance mechanism comprises a rotatable disk and a pair of calipers for engaging the rotatable disk (col. 30, lines 8-34), coil spring (col. 14, lines 1-9), the resistance mechanism is adjustable (col. 41, lines 13-22).

As for claims 12-13, 30, 32 Daniels further the exercise reel comprises an exercise reel adapted to exercise a user's upper body to provide a total body workout (fig. 1a), a clutch mechanism to disengage the resistance mechanism during rewinding

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of the spool (56), a housing for enclosing the spool, the rewind mechanism, and resistance mechanism (116)

The method claims 33, 34, 78, 79 are inherent in the corresponding apparatus claims and are rejected for the reasons above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-9, 14, 16-18, 23, 36-40, 53, 55-61, 81, 82, 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels in view of Lee.

Daniels does not disclose the engagement means comprises a loop.

Lee discloses a loop (fig. 1a) for engagement means.

It would have been obvious to use Lee's loops for Daniel's engagement means, as it is well known in the art to use a loop as taught by Daniel, for engagement a part of an exerciser.

Lee further discloses the loop is padded, (fig. 1), the loop is adjustable by use of an adjustment mechanism selected from the group consisting of: a buckle, a set of snaps or buttons, a set of micro-hooks and micro-loops, and a cable-through-ring mechanism (col. 7, lines 5-7).

As for claims 14, 16-18, 23, 36-39, Lee further discloses the exercise reel comprises a forward-stroke arm exercise reel positioned behind a user to provide

resistance to a forward swinging motion of an arm of the user while allowing the user's arm to perform the forward swinging motion in a natural, free-swinging arm position (fig. 16), the user engagement is adapted to engage the user's hand, arm, or wrist (fig. 17), at least two arm exercise reels, a first reel adapted for use by a left arm of the user and a second reel adapted for use by a right arm of the user (fig. 6), the elongated tension member consists of a length sufficient to extend from a mounting point of the reel on the machine to a furthest point of a user's arm swing from the mounting point, and the spool is sized to hold substantially all of the elongated tension member length (fig. 17).

As for claims 40, 53, 55, Daniels further discloses one user engagement rest positioned in front of the user for holding the user engagement when not in use by the user (fig. 2), a lower-body exercise component having a motion and the one or more resistance devices are independent of the motion of the lower-body component (fig. 2c).

As for claim 86, Lee et al further disclose two upper body exercise modules attached to the lower body exercise machine behind and each to one side of the user when the user is in a normal use position on the lower body exercise machine, the lower body exercise machine having an area to the rear of the machine between the upper body exercise modules that is open for user egress (fig. 17),

The method claims 56-61, 81, 82 are inherent in the corresponding apparatus claims and are rejected for the reasons above.

#### ***Claim Rejections - 35 USC § 103***

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels.

As for claims 10 and 11, the resistance of not greater than about 5 pounds of force or greater than 5 pounds of force are obvious variants in view Daniels adjustable resistance.

***Claim Rejections - 35 USC § 103***

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels in view of Duke.

Daniels does not disclose the clutch is a roller clutch.

Duke discloses a roller clutch (col. 4, lines 17-33).

It would have been obvious to use Duke's roller clutch with Daniels clutch, as it is well known to use a roller clutch, as taught by Duke, for winding a line onto a spool.

***Claim Rejections - 35 USC § 103***

Claims 62-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels in view of Worley.

Daniels does not disclose the adjustment mechanism that is remotely actuatable.

Worley discloses an adjustment mechanism that is remotely actuatable (col. 5, lines 1-43).

It would have been obvious to use Worley's remote adjustment with Daniels, as it is well known as taught by Worley, to use a remote actuation device, for controlling an exercise device.

As for claims 62-65, Worley further discloses the remotely actuatable adjustable resistance mechanism comprises a remote actuator mounted on the machine (col. 5,



lines 1-43), the remotely- actuatable adjustable resistance mechanism comprises a remote actuator mounted on the user engagement (col. 5, lines 1-43).

Claims 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daniels and Lee as applied to the claims above, and further in view of Duke.

Daniels and Lee do not disclose a roller clutch.

Duke discloses a roller clutch (col. 4, lines 17-33).

It would have been obvious to use Duke's roller clutch with Daniels clutch, as it is well known to use a roller clutch, as taught by Duke, for winding a line onto a spool.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 73, 74, 76, 77, 84, 85, 87-89 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee.


Lee discloses at least one device permanently integrated with the machine and mounted behind a user of the machine for enabling and providing resistance to a multi-planar, natural, free-swinging forward arm motion of a user (fig.17), a support structure for preventing the user from being pulled off of the lower body exercise machine by the resistance of the upper body exercise module (fig. 17, front handle)

The method claims 76 ,77, 84, 85 are inherent in the corresponding apparatus claims and are rejected for the reasons above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Glenn Richman  
Primary Examiner  
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